

Message Text

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ACTION NEA-11

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AMEMBASSY TEL AVIV
USMISSION USUN NEW YORK
AMEMBASSY JIDDA

C O N F I D E N T I A L JERUSALEM 1469

E.O. 11652: GDS
TAGS: PBOR, IS, JO
SUBJ: ISRAELI SUPREME COURT ORDERS HALT AT NABI SALIH

REF: (A) JERUSALEM 383, (B) JERUSALEM 1458

SUMMARY: IN RESPONSE TO AN ARAB SUIT, THE ISRAELI SUPREME COURT HAS ORDERED A HALT TO CONSTRUCTION AT THE GUSH EMUNIM SETTLEMENT OF NABI SALIH AND REMOVAL OF A FENCE AROUND THE EXTENDED PERIMETER. THE GOI NOW HAS 45 DAYS TO SHOW WHY WORK SHOULD NOT BE DISCONTINUED INDEFINITELY. THE ARAB SIDE EXPECTS THE GOI TO CONCEDE CULTIVATED PLOTS, BUT CONTEST THE UNDEVELOPED PARCELS. FINAL DECISION MAY BE REFERRED TO MILGOV
END SUMMARY.

1. THE ISRAELI SUPREME COURT MAY 25 ORDERED A HALT TO CONSTRUCTION AT THE NEW GUSH EMUNIM SETTLEMENT OF NABI SALIH
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ON SEVERAL HUNDRED DUNAMS OUTSIDE THE PERIMETER OF THE FORMER JORDANIAN POLICE POST AND REMOVAL OF A FENCE ENCLOSING THIS LAND. (REF A). ACCORDING TO JIM FINE, DIRECTOR OF THE QUAKER LEGAL AID OFFICE WHICH IS BACKING A SUIT BROUGHT BY ARABS IN THE NEARBY VILLAGES OF NABI SALIH AND DEIR NIDHAM, THE COURT ACCEPTED IN THE VERBAL ARGUMENTS THE ARABS' CLAIM THAT THE HAGUE CONVENTION PROHIBITED CONFISCATION OF PRIVATE

PROPERTY. THE GOI LAWYER CONCEDED AS MUCH BY STATING THAT INCLUSION OF CULTIVATED PLOTS WITHIN THE NEW PERIMETER HAD BEEN A MISTAKE, FINE SAID.

2. STILL AT STAKE ARE THE LARGER PLOTS OF UNDEVELOPED LAND. THE ARABS WILL ARGUE THAT THIS LAND, WHILE NOT CULTIVATED, NEVERTHELESS FALLS WITHIN VILLAGE BOUNDARIES AND IS OWNED BY INDIVIDUALS AND, THEREFORE, MUST BE CONSIDERED PRIVATE LAND AND IMMUNE TO EXPROPRIATION. THE GOI IS EXPECTED TO ARGUE THAT THE UNCULTIVATED LAND IS STATE LAND AND MAY BE USED FOR SETTLEMENTS.

3. WHILE ENCOURAGED BY THE SUPREME COURT'S DECISION, FINE SAID HE FEARED THAT THE COURT WOULD EVENTUALLY REFER THE DISPUTE ON THE LAND'S STATUS TO THE MILGOV WHO WOULD APPOINT A THREE-LAWYER PANEL TO HEAR THE ISSUE. FINE THOUGHT SUCH A PANEL WOULD BE LESS LIKELY TO RENDER AN UNBIASED VERDICT.

4. COMMENT: THE GOI'S RETREAT ON ABSENTEE LANDS (REF B) IS ALREADY BEING CREDITED ON THE WEST BANK TO PRESSURE BROUGHT TO BEAR THROUGH THE NEWS MEDIA BY BETHLEHEM MAYOR ELIAS FREIJ. TODAY'S SUPREME COURT DECISION RESTRICTING SETTLEMENT AT NABI SALIH WILL BE AN OBJECT LESSON IN THE POWER OF LEGAL REDRESS. WE MIGHT WELL ANTICIPATE MORE WIDESPREAD RECOURSE BY ARABS IN THE NEAR FUTURE TO THESE METHODS OF RESISTANCE. TO THE EXTENT THIS SUCCEEDS, THE CONFIDENTIAL

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FEELINGS OF IMPOTENCE WHICH HAVE LONG AFFLICTED WEST BANK PALESTINIANS WILL BE REDUCED, AND MODERATES' POSITIONS ENHANCED. IT IS, OF COURSE, TOO EARLY TO TELL, BUT WHAT MAY NOW SEEM DEFEATS FOR THE GOI MAY IRONICALLY HELP TO DEVELOP JUST THE MODERATE WEST BANK LEADERSHIP WHICH ITS EFFORTS TO SELL SELF-RULE HAVE THUS FAR DISCOURAGED.
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